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PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of

Nadia GARDEL et al.

Group Art Unit: 1609

Application No.: 10/849,825

Examiner: S. HOFFER

Filed: May 21, 2004

Docket No.: 119740

For: SKIN MAKEUP COMPOSITION HAVING OPTIMIZED APPLICATION QUALITIES

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In reply to the June 19, 2007 Restriction Requirement, Applicants provisionally elect Group I, claims 25-30 and 80-85, drawn to a fluid cosmetic composition in combination with an additional volatile oil, with traverse.

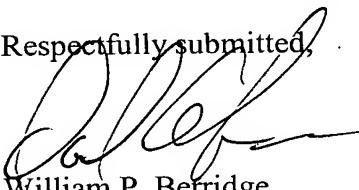
Applicants respectfully request withdrawal of the Restriction Requirement for at least the reason that the Restriction Requirement errs in asserting that the subject matter of Groups I-VI are mutually exclusive. For example, the Restriction Requirement errs in asserting that the subject matter of Group VI, claims 45-47 and 100-102, drawn to a fluid cosmetic composition further comprising a dyestuff, is mutually exclusive with the cosmetic compositions recited in any of Groups of I-V. There is not indication in Applicants' disclosure that such a mutual exclusivity exists. Further, the assertion in the Restriction Requirement must ignore Applicants' disclosure at paragraph [00113], which sets forth that a person skilled in the art will take care to select optional additional additives and/or amounts thereof. Accordingly, Applicants respectfully request withdrawal of the Restriction Requirement.

The Office Action, on page 5, indicates that claims 1-24, 40-42, 48-79, 95-97 and 103 are linking claims. Further, Groups I-VI are related to Group VII as product and process of use. As set forth in the Office Action on page 3 and 4, the withdrawn process claims will be rejoined and allowed upon allowance of the product claims of Group I.

It is also respectfully submitted that the subject matter of all claims 1-104 is sufficiently related that a thorough search for the subject matter of any one Group of claims would encompass a search for the subject matter of the remaining claims. Thus, it is respectfully submitted that the search and examination of the entire application could be made without serious burden. See MPEP §803 in which it is stated that "if the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions" (emphasis added). It is respectfully submitted that this policy should apply in the present application in order to avoid unnecessary delay and expense to Applicants and duplicative examination by the Patent Office.

Thus, withdrawal of the Restriction Requirement is respectfully requested.

Respectfully submitted,


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WPB:DAT/jfb

Date: July 18, 2007

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